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DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

+ + + + + MEETING

IN THE MATTER OF:

A.B.R.A. Agenda

Agenda Hearing

June 18, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

## PRESENT:

RUTHANNE MILLER, Chairperson NICK ALBERTI, Member DONALD BROOKS, Member MIKE SILVERSTEIN, Member JAMES SHORT, Member

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1	P-R-O-C-E-E-D-I-N-G-S
2	(7:53 p.m.)
3	CHAIRPERSON MILLER: Okay. We are
4	back on the record to do the agendas for June
5	18, 2014. And we are going to start with the
6	Licensing Agenda. We have a Licensing Agenda
7	and Supplemental Licensing Agenda.
8	The first item on the Licensing
9	Agenda is a letter from Attorney Lyle
10	Blanchard requesting approval for revised
11	floor and seating plans and this is in ANC-2B.
12	It's for the 1819 Club located at 1819 M
13	Street, N.W., License No. 071088. And these
14	plans had previously been approved by the
15	Board in 2005.
16	And I move that we approve them
17	now. Do I have a second?
18	MEMBER BROOKS: Second.
19	CHAIRPERSON MILLER: Mr. Brooks
20	has seconded the motion.
21	All those in favor say aye.
22	ALL: Aye.

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1	CHAIRPERSON MILLER: All those
2	opposed? All those abstaining? The motion
3	passes 4-0-0.
4	No. 2 is an application for 25
5	percent Grocery B. And it's for Smiley Mart
6	located at 3109 Martin Luther King, Jr.
7	Avenue, S.E., License No. 095103.
8	I move that we deny on the grounds
9	that this would be located within 400 feet of
LO	a school and that school that is now existing
L1	within 400 feet of the location is Imagine,
L2	which is a D.C. Charter School.
L3	MEMBER SHORT: Second.
L <b>4</b>	CHAIRPERSON MILLER: Mr. Short has
L5	seconded the motion.
L6	All those in favor of the motion
L7	to deny say aye.
L8	ALL: Aye.
L9	CHAIRPERSON MILLER: All those
20	opposed? All those abstaining? The motion
21	passes 4-0-0.
22	Third is an entertainment

	Page 4
1	endorsement application for J. Paul's located
2	at 3218 M Street, N.W., License No. 072358.
3	I move that we placard this
4	application. Do I have a second?
5	MEMBER SHORT: Second.
6	CHAIRPERSON MILLER: Mr. Short has
7	seconded the motion.
8	All those in favor say aye.
9	ALL: Aye.
10	CHAIRPERSON MILLER: All those
11	opposed? All those abstaining? The motion
12	passes 4-0-0.
13	No. 4 is a letter from Attorney
14	Michael Fonseca requesting an extension of
15	safekeeping for retailer license. It's for
16	L'Enfant Plaza Hotel located at 480 L'Enfant
17	Plaza, S.W., License No. 093846.
18	I move that we grant this
19	application for a six month period, at which
20	time we would like to receive a written update
21	from the hotel. Do I have a second?
22	MEMBER SILVERSTEIN: Second.

	Page 6
1	1703 Connecticut Avenue, N.W., and it is for
2	earlier hours of operation from 11:00 a.m.
3	down to 6:00 a.m.
4	I move that we approve the
5	application. Do I have a second?
6	MEMBER ALBERTI: Second.
7	CHAIRPERSON MILLER: Mr. Alberti
8	seconded the motion.
9	All those in favor say aye.
LO	ALL: Aye.
L1	CHAIRPERSON MILLER: All those
L2	opposed? All those abstaining? The motion
L3	passes 5-0-0.
L <b>4</b>	No. 6 is a change of hours
L5	application for operation, sales and
L6	consumption and it's for Nooshi located at
L7	1120 19th Street, N.W., it's for both the
L8	premises and the sidewalk cafe.
L9	I move that we placard this
20	application. Do I have a second?
21	MEMBER ALBERTI: Second.
22	CHAIRPERSON MILLER: Mr. Alberti

	Page 7
1	seconded the motion.
2	All those in favor say aye.
3	ALL: Aye.
4	CHAIRPERSON MILLER: All those
5	opposed? All those abstaining? The motion
6	passes 5-0-0.
7	No. 7 is a change of hours
8	application for operation, sales and
9	consumption for the premises and the summer
10	garden for Tortilla Coast located at 1454 P
11	Street, N.W., License No. 086859.
12	I move that we placard this
13	application. Do I have a second?
14	MEMBER ALBERTI: Second.
15	CHAIRPERSON MILLER: Mr. Alberti
16	seconded the motion.
17	All those in favor say aye.
18	ALL: Aye.
19	CHAIRPERSON MILLER: All those
20	opposed? All those abstaining? The motion
21	passes 5-0-0.
22	No. 8 is a change of hours

	Page 8
1	application for the premises and sidewalk cafe
2	with respect to operations, sales and
3	consumption and this is for Chief Ike's Mambo
4	Room located at 1723-1725 Columbia Road, N.W.,
5	License No. 017940.
6	I move that we deny the
7	application because it's in conflict with the
8	settlement agreement. Do I have a second?
9	MEMBER SILVERSTEIN: Second.
LO	CHAIRPERSON MILLER: Okay. The
L1	motion was seconded by Mr. Silverstein.
L2	All those in favor of denying the
L3	application say aye.
L4	ALL: Aye.
L5	CHAIRPERSON MILLER: All those
L6	opposed? All those abstaining? The motion
L7	passes 5-0-0.
L8	No. 9, 10 and 11, are application
L9	for manager's licenses.
20	9 is for Michael Barton, ABRA-
21	095485.
22	10 is for Richard F. Lehner, III,

	Page 9
1	ABRA-095483.
2	11 is for Mousa A. Abusbitan,
3	ABRA-094981.
4	And I move that we approve all
5	three of these applications. Do I have a
6	second?
7	MEMBER SILVERSTEIN: Second.
8	CHAIRPERSON MILLER: Mr.
9	Silverstein has seconded the motion.
10	All those in favor say aye.
11	ALL: Aye.
12	CHAIRPERSON MILLER: All those
13	opposed? All those abstaining? The motion
14	passes 5-0-0.
15	Okay. That concludes the
16	Licensing Agenda.
17	We have a Supplemental Licensing
18	Agenda as well.
19	Okay. Okay. The first item on
20	the Supplemental Agenda is to review
21	additional documentation supporting a request
22	for new Retailer Class B full-service grocery

	Page 11
1	CHAIRPERSON MILLER: Mr. Alberti
2	seconded the motion.
3	All those in favor say aye.
4	ALL: Aye.
5	CHAIRPERSON MILLER: All those
6	opposed? All those abstaining? The motion
7	passes 4-0-0.
8	No. 3 is a request for a
9	stipulated license from the Law Offices of
10	Steven O'Brien with ANC Letter of Support,
11	that is for Yamas Mediterranean Grill located
12	at 1946 New Hampshire Avenue, N.W., License
13	No. 095296 and the ANC is ANC-2B.
14	I move that we approve the
15	stipulated license. Do I have a second?
16	MEMBER ALBERTI: Second.
17	CHAIRPERSON MILLER: Mr. Alberti
18	seconded the motion.
19	All those in favor say aye.
20	ALL: Aye.
21	CHAIRPERSON MILLER: All those
22	opposed? All those abstaining? The motion

	Page 1
1	passes 4-0-0.
2	No. 4 is a request for a
3	stipulated license from The Veritas Law Firm
4	with ANC Letter of Support. The ANC is ANC-
5	6C. The establishment is Hyatt Place
6	Washington DC/US Capitol located at 33 New
7	York Avenue, N.E., License No. 095445.
8	I move that we approve the
9	stipulated license. Do I have a second?
10	MEMBER SHORT: Second.
11	CHAIRPERSON MILLER: Mr. Short has
12	seconded the motion.
13	All those in favor say aye.
14	ALL: Aye.
15	CHAIRPERSON MILLER: All those
16	opposed? All those abstaining? The motion
17	passes 4-0-0.
18	No. 5 is an involuntary transfer
19	of license application and D.C. Superior Court
20	documentation from Paul Pascal, counsel for
21	Sheldon Arpad and it is related to NY NY

Diva's license located at 2406-2408 18th

	1430 1
1	Street, N.W., License No. 092380.
2	I move that I understand that
3	several Board Members are interested in a
4	Fact-Finding Hearing, so I will move for a
5	Fact-Finding Hearing. Is there a second?
6	MEMBER SILVERSTEIN: Second.
7	CHAIRPERSON MILLER: Mr.
8	Silverstein has seconded the motion.
9	All those in favor say aye.
10	ALL: Aye.
11	CHAIRPERSON MILLER: All those
12	opposed? All those abstaining? The motion
13	passes 5-0-0.
14	And No. 6 is a related application
15	for safekeeping of license from Paul Pascal,
16	counsel for Sheldon Arpad with respect to NY
17	NY Diva located at 2406-2408 18th Street,
18	N.W., License No. 092380.
19	This is connected to the previous
20	item and, therefore, I would move for a Fact-
21	Finding Hearing on this application as well.
22	Is there a second?

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1	MEMBER ALBERTI: Second.
2	CHAIRPERSON MILLER: Okay. Mr.
3	Alberti has seconded the motion.
4	All those in favor say aye.
5	ALL: Aye.
6	CHAIRPERSON MILLER: All those
7	opposed? All those abstaining? The motion
8	passes 5-0-0.
9	That concludes our Licensing
10	Agendas.
11	All right. So now, we are going
12	to turn to our Legal Agenda.
13	The first item on the Legal Agenda
14	is a letter from Risa Hirao, counsel for
15	Eagle. And it's dated June 4, 2014. It's
16	related to DC Eagle located at 3701 Benning
17	Road, N.W.
18	MEMBER SHORT: Northeast?
19	CHAIRPERSON MILLER: It's probably
20	a typo. Okay. Let's correct that, Northeast.
21	Thank you, Mr. Short.
22	Benning Road, N.E., License No.

1	93986.	And	this	is	just	an	FYI
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No. 2 is a Motion for

Reconsideration of Board Order 2014-238 dated

June 6, 2014 from Barbara Schauer and Carolyn

Beebe, protestant representative. It's

related to The American located at 1209-1213

10th Street, N.W., License No. 92766.

And there is -- No. 3 is a reply to that Motion for Reconsideration from Risa Hirao, attorney for the applicant, who is The American located at 1209-1213 10th Street.

Okay. So in essence, it's a

Motion for Reconsideration of a Board Order

and I did dissent to that Board Order, but,

basically, the issue is that protestants were

given standing as a party of five or more, as

I understand it, but they consisted of

abutting property owners as well.

And she is claiming here that she had no idea that they could identify some of them as abutting property owners, that the ABC Regs are confusing to the average person. And

the reason that this is relevant is because, as we will see in No. 4, there is a settlement agreement for us to review between the establishment and the ANC.

And under the recent law, if the ANC and an establishment enter into a settlement agreement, a group of five or more loses standing and that protest has to be dismissed.

But if you are an abutting property owner, it isn't dismissed. So because they have some abutting property owners in their group, they were asking that they be given -- identified as standing, for standing purposes as abutting property owners and this Board denied it.

And I was on the opposing side,
because I don't think that the rules are all
that easy for lay people and so she says here
no one ever told them that and they didn't
have any counsel. They didn't have the
community rep from ABRA tell them that or Ms.

1	Fletcher	or	anyone.
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So but anyway, you all were in the majority, so it's up to you to decide whether you want to reconsider.

MEMBER SILVERSTEIN: I move we deny reconsideration.

MEMBER ALBERTI: I'll second that motion. I would like to speak to it.

CHAIRPERSON MILLER: Yes.

MEMBER ALBERTI: Just for clarity sake, I second the motion. I'll speak to it and just for clarity sake, it was never confirmed that these people were abutting property owners. That's a claim they have made, but it was never confirmed.

I think my decision on the order would have been the same, but I want to make sure that the record is very clear that it is only a claim on their party that they are abutting property owners. We do not have evidence that they actually qualify as abutting property owners.

1	MEMBER SILVERSTEIN: I would like
2	to associate myself with Mr. Alberti's remarks
3	and also stress the importance of keeping the
4	teams, as they are, together during the
5	protest process. You can neither change teams
6	nor uniforms in order that the process be kept
7	fair to all involved.
8	If one is going to negotiate, one
9	must know with whom he or she is negotiating
LO	and under what reasons.
L1	CHAIRPERSON MILLER: Okay.
L2	MEMBER SILVERSTEIN: I would like
L3	to move to call the question.
L4	CHAIRPERSON MILLER: Okay. Anyone
L5	else want to speak to it? All right. Then
L6	there has been a motion to deny that has been
L7	seconded.
L8	All those in favor say aye.
L9	MEMBER ALBERTI: Aye.
20	MEMBER SILVERSTEIN: Aye.
21	MEMBER SHORT: Aye.
22	MEMBER BROOKS: Aye.

1	passes	5-0-0

No. 5 is a Motion to Approve a

Settlement Agreement and dismiss the protest
dated June 6, 2014 from Paul Pascal, attorney
for the applicant. This is related to The

American.

So we have just approved the settlement agreement, so what remains is the Motion to Dismiss the Protest because, I believe, that because there is an agreement with the ANC now and the protestants weren't give -- any of the protestants weren't given standing as abutting property owners, but only part of five, they don't retain standing.

And therefore the protest should be dismissed.

So I move that that be dismissed.

MEMBER ALBERTI: Second.

CHAIRPERSON MILLER: Mr. Alberti seconded the motion. Okay. Anyone else want to speak to that? Okay.

All those in favor then say aye.

	rage 2.
1	ALL: Aye.
2	CHAIRPERSON MILLER: All those
3	opposed? All those abstaining? Okay. The
4	motion passes 4-0-0 to dismiss the protest.
5	No. 6 is a settlement agreement
6	dated May 14, 2014 between Lost and Found and
7	ANC-2F. Lost and Found is located at 1240 9th
8	Street, N.W., License No. 94510.
9	I move that we approve this
10	settlement agreement with modification to
11	paragraph 9. 19, 19, excuse me.
12	MEMBER ALBERTI: Second.
13	CHAIRPERSON MILLER: Okay. Mr.
14	Alberti seconded the motion.
15	All those in favor say aye.
16	ALL: Aye.
17	CHAIRPERSON MILLER: All those
18	opposed? All those abstaining? The motion
19	passes 5-0-0.
20	No. 7 is a settlement agreement
21	modification dated June 6, 2014 from ANC-2F.
22	It's for Commissary located at 1443 P Street,

	Page 2
1	N.W., License No. 71487.
2	I move that we postpone
3	consideration of this for a week.
4	MEMBER ALBERTI: Second.
5	CHAIRPERSON MILLER: Okay. Mr.
6	Alberti has seconded the motion.
7	All those in favor say aye.
8	ALL: Aye.
9	CHAIRPERSON MILLER: All those
10	opposed? All those abstaining? The motion
11	passes 5-0-0.
12	Okay. So I believe that that
13	completes our Legal Agenda. And we have a
14	Supplemental Legal Agenda.
15	Okay. The first item on the
16	Supplemental Legal Agenda is a Motion for a
17	Continuance dated June 13, 2014 from Kwamina
18	Wiliford, counsel for 2441 Bond St. Equities,
19	LLC. And the protestant consents to the
20	motion. It is for Tackle Box located at 3245
21	M Street, N.W., License No. 84952.
22	I move that we approve.

1	MEMBER ALBERTI: Second.
2	CHAIRPERSON MILLER: Mr. Alberti
3	seconded the motion.
4	All those in favor say aye.
5	ALL: Aye.
6	CHAIRPERSON MILLER: All those
7	opposed? All those abstaining? The motion
8	passes 5-0-0.
9	No. 2 is a letter dated May 27,
10	2014 from Vincent Carlos Gray of Dos Ventures,
11	LLC and it is related to First Street Fields
12	located at 25 Potomac Avenue, S.E., License
13	No. 94104.
14	An this is an FYI with respect to
15	that case. And would just note that we have
16	read it and that there is no action to be
17	taken at this date.
18	No. 3 is a request for protest
19	standing dated June 12, 2014 from Robin Diener
20	of the Dupont Circle Citizens Association.
21	And the applicant objects to the untimely
22	filed protest

1	1821 18th Street, N.W., License No. 94842.
2	So I believe that the relevant
3	regulation is 1705.5 that says "The Board may,
4	on the request of both the ANC and the
5	applicant, extend the ANC's protest petition
6	deadline for the sole purpose of allowing the
7	ANC to vote on whether to support or protest
8	the license application."
9	And the request does not fall
LO	within that regulation, so I believe we need
L1	to deny it.
L2	MEMBER ALBERTI: Second.
L3	CHAIRPERSON MILLER: Mr. Alberti
L <b>4</b>	has seconded the motion to deny. Any other
L5	comments? Okay.
L6	Then all those in favor say aye.
L7	ALL: Aye.
L8	CHAIRPERSON MILLER: All those
L9	opposed? All those abstaining? The motion to
20	deny passes by a vote of 5-0-0.
21	And No. 4 is a letter dated June
22	10, 2014 from Emanuel Mpras, counsel for Grand

meeting on June 25, 2014 for the purpose of

seeking legal advice from our counsel on the

21

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1	matters identified on the Board's Agenda for
2	June 25, 2014 as published in the DC Register
3	on June 20, 2014.
4	Is there a second?
5	MEMBER BROOKS: Second.
6	MEMBER SILVERSTEIN: Second.
7	CHAIRPERSON MILLER: Mr. Brooks
8	seconded the motion. Okay.
9	I hereby give I'm going to call
10	a roll call vote on the motion now that it has
11	been seconded.
12	Mr. Brooks?
13	MEMBER BROOKS: I agree.
14	CHAIRPERSON MILLER: Mr. Alberti?
15	MEMBER ALBERTI: I agree.
16	CHAIRPERSON MILLER: Ms. Miller
17	agrees.
18	Mr. Silverstein?
19	MEMBER SILVERSTEIN: I agree.
20	CHAIRPERSON MILLER: Mr. Short?
21	MEMBER SHORT: I agree.
22	CHAIRPERSON MILLER: Okay. It

appears that the motion has passed by a 5-0-0 vote.

I hereby give notice that the ABC Board will hold this aforementioned closed meeting pursuant to the Open Meetings Act.

Notice will also be posted on the ABC Board hearing room bulletin board, placed on the electronic calendar on ABRA's website and published in the DC Register in as timely a manner as practicable.

As Chairperson of the 2-574(b) and 2-574 of the Open Meetings Act, I move that the ABC Board hold a closed meeting on June 25, 2014 for the purpose of discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our counsel on the Board's Investigative Agenda for June 25, 2014 as published in the DC Register on June 20, 2014.

Is there a second?

CHAIRPERSON MILLER:

appears that the motion has passed by a 5-0-0

will hold this aforementioned closed meeting

pursuant to the Open Meetings Act.

I hereby give notice that the ABC Board

vote.

18

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Ιt

Okay.

	Page 29
1	Notice will also be posted on the
2	ABC Board hearing room bulletin board, placed
3	on the electronic calendar on ABRA's website
4	and published in the DC Register in as timely
5	a manner as practicable.
6	And that concludes our business
7	for June 18, 2014 and we are adjourned.
8	(Whereupon, the A.B.R.A. Agenda in
9	the above-entitled matter was concluded at
10	8:22 p.m.)
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22	

<u> </u>	<b>Alberti</b> 1:15 6:6,7	Association 23:20	<b>bulletin</b> 27:7 29:2	Code 25:19
<b>A.B.R.A</b> 1:6 29:8	6:21,22 7:14,15	attorney 2:9 4:13	business 29:6	<b>Columbia</b> 1:1 8:4
<b>a.m</b> 6:2,3	10:6,7,22 11:1,16	15:10 20:4		25:18
<b>ABC</b> 15:21 25:20	11:17 14:1,3 17:7	<b>Avenue</b> 3:7 6:1	C	comments 24:15
27:3,6,13 28:20	17:10 18:19 19:16	10:18 11:12 12:7	<b>cafe</b> 6:18 8:1	Commissary 21:22
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above-entitled 29:9	21:12,14 22:4,6	average 15:22	<b>call</b> 18:13 26:9,10	completes 22:13
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19:3,22 21:3,18	<b>ANC</b> 10:16 11:10	23:4,5 24:16,17	5:18 6:7,11,22 7:4	10:18
22:10 23:7 24:19	11:13 12:4,4,4	25:8,9	7:15,19 8:10,15	consents 22:19
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16:10,12,15 17:13	ANC-2B 2:11	back 2:4	14:2,6,19 17:9	consumption 6:16
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Act 25:20 27:5,12	<b>ANC-2F</b> 19:11 21:7	Barton 8:20	19:17,21 20:19	Continuance 22:17
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action 23:16	ANC-6D 10:3	Beebe 15:5	23:2,6 24:13,18	25:17
additional 9:21	anyway 17:2	believe 5:3 20:10	25:6,10,16 26:7	correct 14:20
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adjourned 29:7	applicant 15:10	<b>Benning</b> 14:16,22	27:11 28:2,8,12	13:16 14:14 16:21
advice 25:22 27:18	20:5 23:21 24:5	Beverage 1:2,10,11	28:15,18	22:18 24:22 25:22
aforementioned		25:17	change 5:21 6:14	
27:4 28:21	<b>application</b> 3:4 4:1	<b>Blagden</b> 19:10	7:7,22 18:5	27:18
<b>Agenda</b> 1:5,6 2:6,6	4:4,19 5:22 6:5,15	Blanchard 2:10	Charter 3:12	Court 12:19
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